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PATENT
Atty. Docket No. ACS-54804 (23571)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:) Examiner: Not Assigned Yet.
Ainsworth, et al.) Group Art Unit: Not Assigned Yet
Serial No.: Not Assigned Yet) Application Express Mail Label No.
Filed: December 22, 2000 (No Filing Date) EL691914024US - Mailed 12/22/00
Received from PTO)) Express Mail Label No. of this
For: INTRAVASCULAR STENT) Document: EL 737699338 US
) June 4, 2001

PETITION UNDER 37 CFR § 1.10(e) FOR APPLICATION FILING DATE

Commissioner For Patents
Washington, DC 20231

Sir:

Applicants petition the Commissioner for a filing date of December 22, 2000, for the above-referenced application. The application was filed by applicants' attorney, using Express Mail under the provisions of 37 CFR § 1.10(a). No response has been received from the Patent Office -- not a return postcard nor a filing receipt. Applicants' attorney believes that the application has been lost in the Patent Office, because the United States Postal Service has verified that the Patent Office received the application on December 26, 2000.

Attached are copies of the papers that were sent to the Patent Office by Express Mail on December 22, 2000. They are:

05/11/2001 GTEFFERA 00000005 09746746

01 FC:122

130.00 OP

Adjustment date: 07/09/2001 LGIBBS 001344400
06/11/2001 GTEFFERA 00000005 09746746 -130.00
01 FC:122 Ref: 07/09/2001 LGIBBS 001344400
Repln. Ref: 07/09/2001 LGIBBS 001344400
DA#062425 Name/Number:09746746 \$130.00
FC: 704

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JUN 11 2001

OFFICE OF PETITIONS

PATENT
Atty Docket No. ACS-54804 (22571)

1. Copy of Acknowledgment Postcard;
2. Two pages of Form PTO-1082;
3. Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i);
4. The twenty-six (26) page Application of Stephen D. Ainsworth and E Tina Cheng on an Intravascular stent; and
5. Seven (7) sheets of drawings.

Also attached is a photocopy of the Express Mail mailing receipt for the application, Label No. EL 691914024US. That number is identified on the papers that were filed with the Patent Office.

It should be noted that the Application was filed with missing parts, and applicants' attorney is prepared to file those missing parts upon receipt of a request to file missing parts from the Patent Office.

Attached is the Declaration of Jane E. Barnett regarding the preparation and mailing of the patent application. Ms. Barnett prepared the application for mailing. She gave it to the clerical staff of Fulwider Patton Lee & Utecht, LLP, who then mailed it. Evidence of the mailing includes the mailing receipt and the page from the Fulwider Patton log (copy attached) that documents every Express Mail mailing to the Patent Office. Ms. Barnett's declaration also attests to her preparation and maintenance of the file folder in which the attachments to this Petition have been maintained. In addition, as the Declaration of Ms. Barnett states, on March 22, 2001, she conferred with the United States Postal Service and was told that the package with the patent application's tracking number was delivered to the Patent Office on December 26, 2000.

This Petition is being filed promptly. After not receiving a return postcard that was included with the application, applicants' attorney waited a reasonable time to receive a filing receipt for the application. No filing receipt has ever been received. Approximately five months have passed since the application was filed, and applicants' attorney believes that the entire application has been lost in the Patent Office. Therefore this Petition is now being filed.

PATENT
Atty Docket No. ACS-54804 (22571)

A Petition Fee of \$130.00 is attached. The Commission is authorized to charge deposit account no. 06-2425 for any additional fees associated with this Petition.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By John S. Nagy
John S. Nagy, No. 30,664

FULWIDER PATTON LEE & UTECHT, LLP
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tel: (310) 824-5555
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Customer No. 24201

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JUN 1, 2001

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206641.1

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/20/01 2 Serial/Patent # 09/746,746

3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
Filing			\$
Amendment			\$
Extension of Time			\$
Notice of Appeal/Appeal			\$
Petition	3	6-4-01	\$ 130
Issue			\$
Cert of Correction/Terminal Disc.			\$
Maintenance			\$
Assignment			\$
Other			\$

10 REASON:	7 TOTAL AMOUNT OF REFUND	\$ 130.00
8 TO BE REFUNDED BY:		

Treasury Check
<input checked="" type="checkbox"/> Credit Deposit A/C #:
, <input type="text"/> 06 -- 2425

No Fee Due (Explanation):
<u>Rule 10 petition - moot</u>

11 REFUND REQUESTED BY:
TYPED/PRINTED NAME: <u>E. Shirene Willis</u>

TITLE: Petitions Attorney

PHONE: 308-6712

SIGNATURE: <u>E. Shirene Willis</u>
OFFICE: <u>Office of Petitions</u>

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APPROVED: Diana Chase DATE: 7/9/01

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Crystal Park One, Room 802B



6-G-01

09/446-446 EL 737699338 US

PTO/SB/21 (6-98)

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCEPlease type a plus sign (+) inside this box →

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D A C S
J S

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	Not Assigned
Filing Date	December 22,2000
First Named Inventor	Ainsworth, et al.
Group Art Unit	Not Assigned Yet
Examiner Name	Not Assigned

Total Number of Pages in This Submission

Attorney Docket Number ACS-54804

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> See Below for Additional Enclosures
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
	Remarks	Additional Enclosures: Petition Under 37 CFR Section 1.10(e) for Application Filing Date; Declaration of Jane E. Barnett; Copies of the following documents: Acknowledgment postcard; two pages of Form PTO-1082; Request and Certification under 35 U.S.C. Section 122(b)(2)(B)(i); 26 page Patent Application of Ainsworth, et al.; seven sheets of drawings, postcard; and check in the amount of \$130.00

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	John S. Nagy; Registration No. 30,664 FULWIDER PATTON LEE & UTECHT, LLP	RECEIVED
Signature	<i>John S. Nagy</i>	JUN 11 2001
Date	6-7-01	OFFICE OF PETITIONS

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this correspondence is being deposited with the United States Postal Service envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:

Typed or printed name	John S. Nagy
Signature	<i>John S. Nagy</i>
Date	6-7-01

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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PTO/SB/17 (09-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 130.00)

Complete if Known	
Application Number	Not Assigned
Filing Date	December 22, 2000
First Named Inventor	Ainsworth, et al.
Examiner Name	Not Assigned
Group Art Unit	Not Assigned
Attorney Docket No.	ACS-54804

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 06-2425

Deposit Account Name Fulwider Patton

 Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 Applicant claims small entity status. See 37 CFR 1.272. Payment Enclosed: Check Credit card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101	710	201 355 Utility filing fee	
106	320	206 160 Design filing fee	
107	490	207 245 Plant filing fee	
108	710	208 355 Reissue filing fee	
114	150	214 75 Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid
Total Claims		-20** =	X =
Independent Claims		- 3** =	X =
Multiple Dependent			=

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103	18	203 9 Claims in excess of 20
102	80	202 40 Independent claims in excess of 3
104	270	204 135 Multiple dependent claim, if not paid
109	80	209 40 ** Reissue independent claims over original patent
110	18	210 9 ** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

*or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105	130	205 65 Surcharge - late filing fee or oath	
127	50	227 25 Surcharge - late provisional filing fee or cover sheet	
139	130	139 130 Non-English specification	
147	2,520	147 2,520 For filing a request for ex parte reexamination	
112	920*	112 920* Requesting publication of SIR prior to Examiner action	
113	1,840*	113 1,840* Requesting publication of SIR after Examiner action	
115	110	215 55 Extension for reply within first month	
116	390	216 195 Extension for reply within second month	
117	890	217 445 Extension for reply within third month	
118	1,390	218 695 Extension for reply within fourth month	
128	1,890	228 945 Extension for reply within fifth month	
119	310	219 155 Notice of Appeal	
120	310	220 155 Filing a brief in support of an appeal	
121	270	221 135 Request for oral hearing	
138	1,510	138 1,510 Petition to institute a public use proceeding	
140	110	240 55 Petition to revive - unavoidable	
141	1,240	241 620 Petition to revive - unintentional	
142	1,240	242 620 Utility issue fee (or reissue)	
143	440	243 220 Design issue fee	
144	600	244 300 Plant issue fee	
122	130	122 130 Petitions to the Commissioner	130
123	50	123 50 Petitions related to provisional applications	
126	240	126 240 Submission of Information Disclosure Stmt	
581	40	581 40 Recording each patent assignment per property (times number of properties)	
146	710	246 355 Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249 355 For each additional invention to be examined (37 CFR § 1.129(z))	
179	710	279 355 Request for Continued Examination (RCE)	
169	900	169 900 Request for expedited examination of a design application	

Other fee (specify) _____

Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 130)

SUBMITTED BY

Name (Print/Type)	John S. Nagy	Registration No. (Attorney/Agent)	30,664	Telephone	(310) 824-5555
Signature				Date	6-7-01

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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